

रजिस्टर्ड नं० पी०/एस० एम० 14



राजपत्र, हिमाचल प्रदेश (असाधारण)

हिमाचल प्रदेश, राज्यशासन द्वारा प्रकाशित

शिमला, शनिवार, 21 अप्रैल, 1979/1 वैशाख, 1901

हिमाचल प्रदेश सरकार

विधान सभा सचिवालय

अधिसूचनाएं

शिमला-4, 3 अप्रैल, 1979

संख्या 1-44/79-वि०स०.—हिमाचल प्रदेश विधान सभा प्रकीया एवं कार्य संचालन नियमावली, 1973 के नियम 135 के अन्तर्गत, दी हिमाचल प्रदेश टैक्स आन लम्जरीज (इन होटल्ज एण्ड लॉजिंग हाऊसिज) बिल 1979 (बिल नं० 18 आफ 1979) जो

हिमाचल प्रदेश विधान सभा में 2 अप्रैल, 1979 को पुरःस्थापित किया गया है, सर्व-साधारण की सूचनार्थ राजपत्र में मुद्रित करने के लिए प्रेषित किया जाता है ।

वेद प्रकाश, भटनागर,
सचिव ।

Bill No. 18 of 1979.

**THE HIMACHAL PRADESH TAX ON LUXURIES (IN HOTELS
AND LODGING HOUSES) BILL, 1979**

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

BILL

to provide for the levy and collection of tax on luxury provided in hotels and lodging houses.

Whereas it is expedient to provide for the levy and collection of a tax on luxuries provided in hotels and lodging houses and for matters connected with the purpose aforesaid; it is hereby enacted by Legislative Assembly of Himachal Pradesh in the Thirtieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Himachal Pradesh Tax on Luxuries (in Hotels and Lodging Houses) Act, 1979.

Short title,
extent and
commence-
ment.

(2) It extends to the whole of the State of Himachal Pradesh.

(3) It shall come into force on the 1st day of April, 1979.

2. In this Act, unless the context otherwise requires,—

Definitions

(a) “assessing authority” means the Excise and Taxation Officer or the Assistant Excise and Taxation Officer, appointed under sub-section (1) of section 3 of this Act and conferred the powers under sub-section (2) of section 3 for carrying the purposes of this Act;

(b) “commissioner” means the Excise and Taxation Commissioner appointed under sub-section (1) of section 3;

(c) “concessional rate” in relation to luxury provided in a hotel, means a rate lower than the normal rate fixed for such luxury by the hotel or than that fixed by any Government authority, or under any law for the time being in force;

(d) “hotel” means a building or a part of a building where residential accommodation is by way of business provided for a monetary consideration and it includes a lodging house;

(e) “luxury provided in hotel” means accommodation for residence provided in a hotel, rate of charges for which (including air-conditioning, telephone, television, radio, music or extra beds and the like, but excluding charges for food, drink and for other amenities) is twenty rupees per person per day or more;

(f) “proprietor” in relation to a hotel includes the person who for the time being is in-charge of the management of the hotel; and

(g) “prescribed” means prescribed by the rules made under this Act.

Taxing
authorities;

3. (1) For carrying out the purposes of this Act, the State Government may appoint a person to be the Excise and Taxation Commissioner and such other persons to assist him as it thinks fit.

(2) Persons appointed under sub-section (1) shall exercise such powers as may be conferred and perform such duties as may be required, by or under this Act.

(3) All persons appointed under sub-section (1) shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Levy and
collection
of tax.

4. (1) Subject to the provisions of this Act, there shall be levied and collected a tax in respect of any luxury provided in a hotel (hereinafter called the luxury tax.

(2) The luxury tax shall be payable by the persons residing at a hotel at the following rates, namely:—

- | | |
|---|------------------------------|
| (a) where the charge for residence is twenty rupees or more but does not exceed fifty rupees per day per person; | 3 percentum of such charges. |
| (b) where the charge for residence exceeds fifty rupees but does not exceed seventy five rupees per day per person; | 5 percentum of such charges. |
| (c) where the charge for residence exceeds seventy five rupees per day per person; | 7 percentum of such charges: |

Provided that, where any such charges are paid by any person other than the citizen of India, in any foreign exchange, then such person or where such charges are paid by any person or class of persons as the State Government may, by order, direct, such as foreigners staying as guests in India of any Government, or of any Corporation or company owned or controlled by the Government, or such other person as in the opinion of the State Government, it is expedient in the public interest to exempt, then such person or persons shall be exempted from the payment of the luxury tax:

Provided further that, where the charges are levied otherwise than on daily basis or per person, then, charges for determining the tax liability under this section, shall be computed as for a day and per person based on the period of occupation of the residence for which the charges are made and the number of persons actually occupying or permitted to occupy according to the rules or custom of the hotel.

(3) Where luxury is provided in a hotel to the representatives or employees of any company and charges for such luxury are to be borne by the company then there shall be levied and collected the luxury tax from such company.

Explanation:—In this sub-section, “company” means any body corporate, and includes a firm or other association of individuals.

(4) The luxury tax under the foregoing sub-sections shall be collected by the proprietor and paid within such period into a Government treasury or the State Bank of India and in such manner as may be prescribed.

(5) In computing the luxury tax under this section, a fraction of a rupee which is not a multiple of five paise, shall be rounded off to the next higher multiple of five paise.

5. (1) Where the rate of charges for luxury provided in a hotel is inclusive of the charges for food or drink, or other amenities, if any, being amenities referred to in clause (e) of section 2 then the Commissioner or any other officer, not below the rank of the Deputy Excise and Taxation Commissioner, authorised in writing may, from time to time after giving the proprietor an opportunity of being heard, fix separate rates of charges for such luxury and for food or drink or other amenities, if any, being amenities referred to in clause (e) of section 2, for the purpose of calculating the luxury tax under this Act.

Mode of collection of tax, etc.

(2) Where, in addition to the charges for luxury provided in a hotel, service charges are levied and appropriated by the proprietor and not paid to the staff, then such charges shall be deemed to be part of the charges for luxury provided in the hotel.

(3) Where luxury provided in a hotel to any person (not being an employee of the hotel) is not charged at all, or is charged at a concessional rate, nevertheless there shall be levied and collected the luxury tax on such luxury, as if full charges for such luxury were paid to the proprietor of the hotel.

(4) Where luxury provided in a hotel for a specified number of persons is shared by more than the number specified, then in addition to the luxury tax paid for luxury provided to the specified number of persons, there shall be levied and recovered separately the luxury tax in respect of the charge made for the extra persons accommodated.

(5) Where any proprietor fails or neglects to collect the luxury tax payable under this Act, the luxury tax shall be calculated and paid as if the tax was recovered from the person liable to pay the same.

6. (1) Every proprietor liable to pay luxury tax under this Act shall submit a return in the prescribed form to the assessing authority of the district concerned within eight days after the end of the month to which the return relates.

Returns

(2) Every such return shall show the number of rooms or other accommodation in the hotel which is intended to be occupied, the number of persons who occupied such rooms or accommodation, the periods of their stay, the day of arrival and departure, the amount of charges recovered from them, together with such other information as may be prescribed.

(3) Every such return shall be accompanied by a receipt for payment on Government account into a Government treasury or the State Bank of India of the full amount of luxury tax for the period to which the return relates.

(4) Every return shall be verified in the prescribed manner.

7. (1) On receipt of a return under section 6, the assessing authority of the district concerned shall assess the luxury tax payable in respect of the period to which the return relates, and if the amount has not already been paid as aforesaid, he shall cause a notice to be served upon the proprietor concerned requiring him to pay the amount assessed within ten days of the service of the notice.

Assessment and collection of tax.

(2) If the proprietor fails to submit in due time the return referred to in section 6 the assessing authority shall, after giving him a reasonable opportunity of being heard, assess to the best of his judgement, the amount of

luxury tax payable and the provisions of sub-section (1) in respect of notice shall apply as if such assessment has been made on the basis of a return furnished by such proprietor.

(3) If the luxury tax is not paid within the prescribed period the assessing authority may, after giving an opportunity of being heard, levy a penalty equal to a sum not exceeding one and a half times of the amount of the luxury tax payable under this Act.

Appeal.

8. Any person aggrieved by any order passed by the assessing authority under this Act may, in the prescribed manner, appeal to the Deputy Excise and Taxation Commissioner within 90 days from the date of receipt of such order:

Provided that no appeal shall be entertained by the Deputy Excise and Taxation Commissioner, unless he is satisfied that the amount of tax assessed and the penalty, if any, imposed on the proprietor has been paid:

Provided further that if the Deputy Excise and Taxation Commissioner is satisfied that the proprietor is unable to pay the tax assessed or the penalty, if any, imposed or both, he may for reasons to be recorded in writing entertain the appeal without the tax or penalty or both having been paid.

(2) Subject to the rules of procedure as may be made in this behalf by the State Government the Deputy Excise and Taxation Commissioner, may pass such orders in relation thereto as he may think fit.

Revision.

9. (1) The Commissioner may, *suo-motu* or on application, call for and examine the record and proceedings which are pending before, or have been disposed of by any assessing authority or the appellate authority under section 8 for the purpose of satisfying himself as to the legality or propriety of such proceedings or of any order made therein and may pass such orders in relation thereto as he may think fit:

Provided that no application under this section shall be entertained if it is not made within the period of 120 days from the date of order:

Provided further that, before rejecting any application for revision of any such order, the Commissioner shall record reasons for such rejection.

(2) No order shall be passed under this section which is likely to effect any person adversely, unless such person has been given a reasonable opportunity of being heard by the Commissioner.

(3) Where a person could have appealed under section 8 and no appeal has been filed by him, no proceedings under this section shall be entertained upon the application of such person.

Court fees.

10. Notwithstanding anything contained in the Himachal Pradesh Court Fees Act, 1968 an appeal preferred under section 8 or an application for revision made under section 9 shall bear court fee stamp of such value as may be prescribed.

**Recovery
as arrears
of land
revenue.**

11. Any luxury tax or penalty recoverable under this Act and remaining unpaid shall be recoverable as an arrear of land revenue.

12. A notice under the provisions of this Act may be served by post or by delivering or tendering it to the person to whom it is addressed or to his agent or in such manner as may be prescribed.

Service of notice.

13. (1) The assessing authority may, subject to such conditions as may be prescribed, require any proprietor to produce before him the working records of accounts, registers or documents or to furnish any information relating to the business of the hotel as may be necessary for the purpose of this Act.

Power to inspect accounts and documents etc. and searches of premises.

(2) All working records of accounts, registers or documents relating to the business of any hotel shall, at all reasonable time, be open to inspection by the assessing authority, and the assessing authority may, take or cause to be taken such copies of or extracts from any of the said records or accounts as may be necessary for the purpose of testing accuracy of any return or charges of such luxury or for informing himself as to the particulars regarding which information is required for the purposes of this Act or any rules made thereunder as would appear to him necessary.

(3) If the assessing authority has reasons to believe that any proprietor has evaded or is attempting to evade the payment of luxury tax due from him, he may, for reasons to be recorded in writing, seize such records of accounts, registers or documents of the proprietor as may be necessary and shall grant a receipt for the same and shall retain the same so long as may be necessary in connection with any proceedings under this Act or for a prosecution.

(4) For the purposes of this Act, the assessing authority may enter and search any hotel or any place of business of the proprietor or any other place where the assessing authority has reason to believe that the proprietor keeps or is for the time being keeping, any records of accounts, registers or documents of his business in relation to the hotel.

14. (1) Any person who being a proprietor liable to pay the luxury tax under this Act,—

Penalty.

(a) submits or allows or causes to be submitted an incorrect or incomplete return or fails to submit the return as required by or under the provisions of this Act; or

(b) fraudulently evades or allows to be evaded the payment of any luxury tax due from him; or

(c) fraudulently makes or causes or allows to be made any wrong entry in or fraudulently omits or causes or allow to be omitted any entry from any statement submitted or any accounts or register; or

(d) contravenes, or fails to comply with, any of the provisions of this Act or the rules made thereunder or any order or direction made or given thereunder, shall, if no other penalty is provided under this Act for such contravention or failure, be liable to the imposition of penalty not exceeding double of the amount of tax involved.

(2) The Officer of the rank of Excise and Taxation Officer/Assistant Excise and Taxation Officer, appointed under sub-section (2) of section 3 may, after affording to the person concerned reasonable opportunity of being heard, impose penalty specified under sub-section (1).

Offences by
companies.

15. (1) Where an offence under this Act has been committed by the company, every person who at the time when the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall under any such person liable to any punishment provided in this Act if he proves that the offence committed was without his knowledge or that he exercised due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of, any director, manager or secretary or any officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) “company” means a body corporate and includes a firm or other association of individuals.

(b) “director” in relation to a firm means a partner in the firm.

Indemnity

16. No suit, prosecution or other legal action shall lie against the Government or any officer of the Government for anything which is in good faith done or intended to be done by or under this Act or the rules made there-under.

Power to
make rules.

17. (1) The State Government may make rules for securing payment of the luxury tax on hotels, and generally for carrying into effect the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the form in which the return shall be submitted under section 6, further information to be furnished with the returns and the manner in which returns shall be verified;

(b) the form of notice to be served under section 7 and the procedure to be followed for assessment and collection of the assessed dues;

(c) the procedure for, and other matters incidental to, the disposal of appeals under section 8;

(d) fixation of the value of court fee stamp to be affixed on an appeal or application for revision under section 10;

(e) the other manner in which a notice may be served under section 12;

(f) the procedure for inspection and taking copies of records and accounts under section 13;

(g) the fees to be paid for any of the matters provided in this Act; and

(h) any other matter which is required to be or may be prescribed.

(3) All rules made under this section shall be subject to the condition of previous publication.

(4) Every rule made under this section shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of not less than fourteen days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, the Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

This Bill contemplates the levy and collection of tax on luxury provided in hotels and lodging houses in the State, with a view to augmenting the resources of the State.

SIMLA:
The 2nd April, 1979.

JAGDEV CHAND,
Minister-in-charge.

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for the levy of a tax in respect of luxury provided in hotels and the provisions of the Bill when enacted is likely to yield an approximate income of eight lac rupees per annum. The provisions of the Bill will be put into operation through the existing staff of the Excise and Taxation Department and as such there will be no extra burden on the State exchequer.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 17 of the Bill empowers the State Government to make, subject to the condition of previous publication, rules for the purpose of giving effect to the provisions of this Bill. The rules so made are to be laid before the State Legislature. This delegation is essential and normal in character.

RECOMMENDATIONS OF THE GOVERNOR UNDER ARTICLE 207 OF THE CONSTITUTION OF INDIA

[Excise and Taxation Department File No. EXN. F. (10)-5/79]

The Governor of Himachal Pradesh having been informed of the subject matter of the Himachal Pradesh Tax on Luxuries (in Hotels and Lodging Houses) Bill, 1979, recommends under Article 207 of the Constitution of India, the introduction and consideration of the Bill in the Legislative Assembly.

शिमला-171004, 3 अप्रैल, 1979

संख्या 1-44/79-वि० स०.—हिमाचल प्रदेश विधान सभा प्रक्रिया एवं कार्य संचालन नियमावली, 1973 के नियम 135 के अन्तर्गत, 'दी हिमाचल प्रदेश जनरल सैल्ज टैक्स (अमैण्डमेंट) बिल, 1979 (बिल नं० 22 आफ 1979) जो हिमाचल प्रदेश विधान सभा द्वारा 2 अप्रैल, 1979 को पुरःस्थापित किया गया है, सर्वसाधारण की सूचनार्थ राजपत्र में मुद्रित करने के लिए प्रेषित किया जाता है।

वेद प्रकाश भटनागर,
सचिव।

Bill No. 22 of 1979.

**THE HIMACHAL PRADESH GENERAL SALES TAX
(AMENDMENT) BILL, 1979**

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

BILL

further to amend the Himachal Pradesh General Sales Tax Act, 1968 (Act No. 24 of 1968).

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Thirtieth Year of Republic of India as follows:—

1. (1) This Act may be called the Himachal Pradesh General Sales Tax (Amendment) Act, 1979.

Short title and commencement.

(2) Save as otherwise provided in this Act, it shall be deemed to have come into force on the 1st day of April, 1979.

2. For the sign “.” occurring at the end of clause (p) of section 2 of the Himachal Pradesh General Sales Tax Act, 1968 (hereinafter referred to as the principal Act) the sign “;” shall be substituted and after the clause “p” so amended the following clause “q” shall be added, namely:—

Amendment of section 2.

“q “surcharge” means the levy described in section 6-A of this Act.”

24 of 1968.

3. (1) In the first proviso of sub-section (1) of section 6 of the principal Act for the existing words “except on item 25 thereof on which a tax at the rate of 20 paise in a rupee shall be levied, from such date as the Government may, by notification direct” the words “except on items 25 and 34 thereof on which a tax at the rate of 25 paise in a rupee shall be levied” shall be substituted.

Amendment of section 6.

(2) The amendment made in sub-section (1) in relation to item 34 of Schedule A of the principal Act shall be deemed to have been made with effect from the 1st day of February, 1979.

4. After section 6 of the principal Act, the following section 6-A shall be inserted, namely:—

Insertion of new section 6-A.

“6-A. Levy of surcharge.—

(1) There shall be levied, in the prescribed manner, surcharge at the rate of ten per cent on the total amount of tax payable under the Act:

Provided that the surcharge in relation to the sale of goods specified under item 34 of Schedule ‘A’ of the Act shall be deemed to have been levied with effect from the 1st day of February, 1979:

Provided further that this surcharge shall not apply in respect of goods declared to be of special importance under section 14 of the Central Sales Tax Act, 1956, unless the ceiling rate as prescribed under section 15(a) of the aforesaid Act has been reached.

(2) The provisions of this Act shall, *mutatis mutandis*, apply in relation to the surcharge chargeable under sub-section (1).

47 of 1956.

Amendment
of section
12.

5. For sub-section (4) of section 12 of the principal Act, the following sub-section (4) shall be substituted, namely:—

“(4) Before a registered dealer furnishes the return required by sub-section (3), he shall, in the prescribed manner, pay into a Government Treasury or the Reserve Bank of India, or at the office of the District Excise and Taxation Officer, the full amount of tax due from him under the Act according to such returns and shall furnish alongwith the returns a receipt from such treasury, bank or office of the District Excise and Taxation Officer showing the payment of such amount:

Provided that no payment of such amount shall be accepted at the office of the District Excise and Taxation Officer save through a bank draft payable at a local Scheduled Bank in favour of the assessing authority.

Explanation.—For the purposes of this sub-section “Scheduled Bank” means a bank included in the Second Schedule to the Reserve Bank of India Act, 1934.”

2 of 19

Amendment
of section 14.

6. In section 14 of the principal Act,—

(a) after sub-section (1) the following new sub-section (1-A) shall be inserted, namely:—

“(1-A) If the taxable turnover of a dealer registers an increase of fifteen per cent or upwards over the turnover of the preceding year as determined under this section and fulfills such other conditions as the State Government may deem fit to prescribe in this behalf, the assessing authority may dispense with the presence of such dealer and the production of an evidence by him under sub-section (1).;

(b) for the existing sub-section (7) the following sub-section (7) shall be substituted, namely:—

“(7) The amount of any tax, penalty or interest payable under this Act shall be paid by the dealer in the manner prescribed by such date as may be specified in the notice issued by the assessing authority for the purpose and the date so specified shall not be less than fifteen days and not more than thirty days from the date of service of such notice:

Provided that the assessing authority may, with the prior approval of the Excise and Taxation Officer incharge of the district, extend the date of such payment, but not more than 90 days, or allow payment by monthly instalments not exceeding three against an adequate security of a bank guarantee.”

Amendment
of section
16.

7. In section 16 of the principal Act, between the words “penalty imposed” and “under this Act”, the words ‘or interest payable’ shall be inserted.

Insertion of
new section
17-A.

8. After section 17 of the principal Act the following new section 17-A shall be inserted, namely:—

“17-A. *Payment of Interest.*—(1) If any dealer fails to pay the amount of tax due from him as required by sub-section (4) of section 12, he shall, in addition to the amount of tax, be liable to pay simple interest on the amount of tax due from him at the rate of one per centum per month from the date immediately following the last date for the submission of the return under sub-section (3) of that section, for a period of one month and thereafter at the rate of one and a half percentum, per month till the default continues.

- (2) If the amount of tax or penalty due from a dealer is not paid by him within the period specified in the notice of demand or, if no period is specified within thirty days from the service of such notice, the dealer shall, in addition to the amount of tax or penalty, be liable to pay simple interest on such amount at the rate of one per centum per month from the date immediately following the date on which the period specified in the notice or the period of thirty days, as the case may be, expires, for a period of one month and thereafter at the rate of one and a half per centum per month till the default continues:

Provided that where the recovery of any tax or penalty is stayed by an order of any court, the amount of tax or penalty shall, after the order of stay is vacated, be recoverable along with interest at the aforesaid rate on the amount ultimately found to be due and such interest shall be payable from the date the tax or penalty first became due.

- (3) The amount of interest payable under this section shall—
 (i) be calculated by considering part of a month as one month and any amount less than one hundred rupees as one hundred rupees;
 (ii) for the purposes of collection and recovery, be deemed to be tax under this Act;
 (iii) be in addition to the penalty, if any, imposed under this Act.”

9. For the existing section 18 of the principal Act the following section 18 shall be substituted, namely:—

Substitution
of section
18.

“18.—Refund. (1) The assessing authority shall in the prescribed manner refund to a registered dealer applying in this behalf any amount of tax, interest or penalty paid by such dealer under this Act,—
 (a) if the amount of tax, penalty or interest so paid is in excess of the amount due from him under this Act; or
 (b) if the amount of tax so paid is in respect of the sale or purchase of any declared goods and such goods are sold in the course of inter-State trade or commerce;
 either by refund voucher or, at the option of the dealer, by adjustment of the amount so paid with the amount due from him, in respect of any other period:

Provided that the refund under clause (b) shall be subject to such conditions, as may be prescribed:

Provided further that no refund under this section shall be allowed unless the claim for refund is made within a period of three years from the date on which such claim accrues.

Explanation.—(1) For the purposes of this sub-section, the expression “in the course of inter-State trade or commerce” shall have the meaning assigned to it by section 3 of the Central Sales Tax Act, 1956.

- (2) Notwithstanding anything contained in sub-section (1), the assessing authority shall first adjust the amount to be refunded towards the recovery of any amount due from the dealer on the date of such adjustment, and shall thereafter refund the balance, if any.
 (3) Where any amount required to be refunded by the assessing authority to any person by virtue of an order issued under this Act is not refunded to him within ninety days of the date of the order, the

dealer shall be entitled to get simple interest on such amount at the rate of one per centum per month from the date immediately following the date of expiry of the said period for a period of one month and thereafter at the rate of one and a half per centum per month till the refund is made:

Provided that for the purpose of calculation of the interest, part of a month shall be considered as one month and any amount less than one hundred rupees shall be considered as one hundred rupees.

- (4) If the delay in allowing refund within the aforesaid period of ninety days is for reasons beyond the control of the assessing authority or attributable to the dealer, whether wholly or in part, the period of such delay shall be excluded from the period for which interest is payable.
- (5) If any question arises whether any period is to be excluded for the purposes of calculation of interest under sub-section (4) the same shall be referred to the Commissioner or such other officer as the State Government may, by notification, appoint whose decision shall be final.
- (6) Where an order allowing refund is the subject-matter of any appeal or further proceedings or where any other proceedings under this Act are pending, and the assessing authority is of the opinion that the refund is likely to adversely affect the recovery, the assessing authority may withhold the refund and refer the case to the Commissioner whose orders shall be final.
- (7) The period during which the refund remains withheld under sub-section (6) shall be excluded for the purpose of calculation of interest under this section."

Amendment
of section
19.

10. In clause (a) of sub-section (2) of section 19 of the principal Act—
 - (a) for the words "ten rupees" the words "twenty-five rupees" shall be substituted;
 - (b) after the words "and price thereof" but before the sign ":" the words "and further showing the sales tax, the purchase tax and the surcharge involved" shall be inserted.

Amendment
of section 40.

11. In sub-section (2) of section 40 of the principal Act, after clause (j) the following clauses (jj) and (jjj) shall be inserted, namely:—
 - "(jj) the conditions subject to which the presence of a dealer or production of evidence by him can be dispensed with under sub-section (1-A) of section 14;
 - (jjj) the manner of payment of tax, penalty or interest, under sub-section (7) of section 14;."

STATEMENT OF OBJECTS AND REASONS

The State Government is committed to enforce complete prohibition within four years as announced by the Government. In order to take steps for enforcing the said prohibition and to discourage the consumption of Indian made foreign liquor, including wines and beer, it is necessary to increase the price of such liquor by raising the rate of sales tax from 20% to 25% leviable thereon. During the financial year 1978-79 the rate of sales tax on I.M.F.L., was increased from 10% to 20% as compared to its preceding financial year 1977-78. During the year 1979-80 in order to further increase the price of I.M.F.L., the sales tax on this item is proposed to be increased from 20% to 25%. Besides, at present the timber is taxable at the rate of 10% on sale under the Himachal Pradesh General Sales Tax Act, 1968, at first stage. Such timber is again subject to tax under the Himachal Pradesh Taxation (On Certain Goods Carried by Road) Act of 1976, on the multipurpose barriers established by the Government. In order to simplify the taxation procedure and to avoid inconvenience to the dealers, it is proposed to charge sales tax at the enhanced rate i.e. at the rate of 25% instead of 10% only once, that too at the first stage. Hence, it is necessary to make suitable amendments in section 6 of the Himachal Pradesh General Sales Tax Act, 1968.

2. Since the auction of forests trees (timber) for the year 1979-80 was held on 4-2-79 and the forest lessees have also been apprised of the fact that the sales tax will be chargeable at the rate of 25% or as the State Government may determine from time to time it is necessary to give effect to this provision in respect of item 34 of Schedule 'A' to the Act from 1-2-79.

3. In order to augment the State revenues it has been further decided that the surcharge at the rate of 10 per cent on the total amount of sales or purchase tax should be levied. To achieve this object section 6-A along with the consequential amendments is proposed to be inserted in the Himachal Pradesh General Sales Tax Act, 1968. Since the sale tax in respect of the sale of goods specified in item 34 of Schedule 'A' is proposed to be increased with effect from 1-2-79, it is also considered necessary to levy the surcharge on the said sales, with effect from the said date. As such the necessary provisions have been incorporated in clause 4 of the Bill.

4. In addition to this it has also been considered necessary to facilitate the payment of tax under the Act, through bank drafts, and to dispense with the presence of the dealers and the production of evidence by them, in certain circumstances. Hence sections 12 and 14 are proposed to be amended.

5. Further to ensure regular payments of sales tax and refund thereof a provision for payment of interest for delays is proposed to be incorporated by making amendments in sections 14 and 18 and inserting new section 17-A of the Act.

6. In addition to the above, having stock of inconvenience of the dealers, it has also been considered necessary that the limit for compulsory issue of cash memos should also be raised from Rs. 10 to Rs. 25 by amending sub-section (2) of the principal Act.

The Bill seeks to achieve the aforesaid objectives.

SIMLA:
The 2nd April, 1979.

JAGDEV CHAND,
Minister-in-charge.

FINANCIAL MEMORANDUM

The proposed amendments in section 6 and insertion of section 6-A of the Himachal Pradesh General Sales Tax Act, 1968, vide clauses 3 and 4 of the Bill, are likely to fetch an additional revenue of Rs. 30 lakhs in case of Indian made Foreign Liquor; Rs. 1.2 crores on account of increase in the rate of sales tax on timber; and approximately Rs. 75 lacs from levy of additional surcharge per annum. However, by according exemption from the payment of tax on the carriage of timber by road under the provisions of the Himachal Pradesh Taxation (On Certain Goods Carried by Road) Act, 1976, the State Government has to forego the revenue to the tune of Rs. 60 lacs per annum. Since the agency for realization of the tax already exists, no extra expenditure is likely to be incurred for the implementation of the provisions of the Bill, when enacted.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Consequent upon the amendment in section 14 of the principal Act, clause 11 of the Bill proposes to amend section 40 of the Act to empower the State Government to prescribe the manner of payment of tax, penalty or interest, under the Act. Sub-section (1) of section 40 of the Act read with sub-section (2) of section 6-A proposed to be inserted by clause 4, empowers the State Government to prescribe *inter alia* the manner in which the surcharge shall be paid. This delegation is necessary and normal in character.

RECOMMENDATIONS OF THE GOVERNOR UNDER ARTICLE 207 OF THE CONSTITUTION OF INDIA

[Excise and Taxation Department File No. EXN. F(18.)-1/79]

The Governor of Himachal Pradesh, having been informed of the subject matter of the Himachal Pradesh General Sales Tax (Amendment) Bill, 1979, recommends, under Article 207 of the Constitution of India, the introduction and consideration of the Bill in the Legislative Assembly.

शिमला-1710 04, 3 अप्रैल, 1979

संख्या 1-43/79-वि0स0.—हिमाचल प्रदेश विधान सभा प्रक्रिया एवं कार्य संचालन नियमावली, 1973 के नियम 135 के अन्तर्गत, दी हिमाचल प्रदेश मोटर व्हीकलज टैक्सेशन (अमैडमेंट) बिल, 1979 (बिल नं० 23 आफ 1979) जो हिमाचल प्रदेश विधान सभा द्वारा 2 अप्रैल, 1979 को पुरस्थापित किया गया है, सर्वसाधारण की सूचनार्थ राजपत्र में मुद्रित करने के लिए प्रेषित किया जाता है।

वेद प्रकाश भटनागर,
सचिव।

Bill No. 23 of 1979.

**THE HIMACHAL PRADESH MOTOR VEHICLES TAXATION
(AMENDMENT) BILL, 1979**

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

BILL

*further to amend the Himachal Pradesh Motor Vehicles Taxation Act, 1972
(Act No. 4 of 1973).*

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Thirtieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Himachal Pradesh Motor Vehicles Taxation (Amendment) Act, 1979.

Short title
and com-
mencement.

(2) It shall come into force with effect from the first day of April, 1979.

2. In the Schedule to the Himachal Pradesh Motor Vehicles Taxation Act, 1972,—

Amendment
of Sche-
dule.

(a) for the existing sub-item (i) of item 4 the following sub-item (i) shall be substituted, namely:—

“(i) Motor cabs with contract carriage permits plying for hire and used for the transport of passengers excluding the driver. Rs.100/- per seat”; and

(b) for the existing sub-item (i) of item 5 the following sub-item (i) shall be substituted, namely:—

“(i) Stage carriage plying for hire and used for the transport of passengers excluding the driver and conductor. Rs. 200/- per seat, subject to a maximum of Rs. 10,000.”

STATEMENT OF OBJECTS AND REASONS

The Himachal Pradesh Motor Vehicles Taxation Act, 1972 (Act No. 4 of 1973) provides for taxation of various categories of motor vehicles including stage carriages, public carriages and motor cabs etc. In the adjoining State of Punjab the rates of the said tax in respect of cabs is Rs. 100/- per seat as compared to Rs. 75/- per seat in this State and in respect of stage carriages is Rs. 200/- per seat subject to a maximum of Rs. 20,000/- per vehicle as compared to Rs. 105/- per seat subject to a maximum of Rs. 4,200/- per vehicle in this State. In order to mobilise additional resources for the State and to levy the said tax at the same rates as are prevalent in the adjoining State of Punjab in respect of motor cabs and to increase the tax chargeable in respect of stage carriages from Rs. 105/- per seat subject to the maximum of Rs. 4,200/- per vehicle to Rs. 200 per seat subject to maximum per vehicle of Rs. 10,000/- it has been decided to make necessary amendments in the Himachal Pradesh Motor Vehicles Taxation Act, 1972 (Act No. 4 of 1973).

The Bill seeks to achieve the aforesaid objective.

JAGDEV CHAND,
Minister-in-charge.

SIMLA:

The 2nd April, 1979.

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for the increase of the rate of tax chargeable in respect of motor cabs and stage carriages and it is estimated that after the enactment of the proposed Bill there will be approximately an annual increase of forty-seven lac rupees in the State revenues. No extra expenditure is required to be incurred for the implementation of the provisions of the Bill.

MEMORANDUM REGARDING DELEGATED LEGISLATION
NilRECOMMENDATIONS OF THE GOVERNOR UNDER ARTICLE
207 OF THE CONSTITUTION OF INDIA

(File No. 3-9/79-Parivahan)

The Governor of Himachal Pradesh, having been informed of the subject matter of the Himachal Pradesh Motor Vehicles Taxation (Amendment) Bill, 1979, recommends, under Article 207 of the Constitution of India, the introduction and consideration of the Bill in the Legislative Assembly of Himachal Pradesh.

शिमला-171004, 4 अप्रैल, 1979

संख्या 1-45/79-वि०स०.—हिमाचल प्रदेश विधान सभा प्रक्रिया एवं कार्य संचालन नियमावली, 1973 के नियम 135 के अन्तर्गत, दा हिमाचल प्रदेश लैजिस्लेटिव असेम्बली मैम्बरज (रिमूवल आफ डिस्क्वालिफिकेशनज) (अमैण्डमेंट) बिल, 1979 (बिल नं० 27 आफ 1979), जो हिमाचल प्रदेश विधान सभा में 4 अप्रैल, 1979 को पुरस्थापित किया गया है, की एक प्रति, सर्व साधारण की सूचनार्थ राजपत्र में मुद्रित करने के लिए प्रेषित की जाती है।

वेद प्रकाश भटनागर,
सचिव।

Bill No. 27 of 1979.

**THE HIMACHAL PRADESH LEGISLATIVE ASSEMBLY
MEMBERS (REMOVAL OF DISQUALIFICATIONS)
(AMENDMENT) BILL, 1979**

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

-BILL

to amend the Himachal Pradesh Legislative Assembly Members (Removal of Disqualifications) Act, 1971 (Act No. 7 of 1971).

BE it enacted by the Legislative Assembly of the Himachal Pradesh in the Thirtieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Himachal Pradesh Legislative Assembly Members (Removal of Disqualifications) (Amendment) Act, 1979.

Short title and commencement.

(2) It shall come into force at once.

7 of 1971 2. In the existing section 3 of the Himachal Pradesh Legislative Assembly Members (Removal of Disqualifications) Act, 1971,—

Amendment of section 3.

(i) the sign “.” occurring at the end of clause (r) shall be substituted by the sign “;”; and

(ii) after clause (r) so amended the following clause (s) shall be added, namely:—

“(s) notwithstanding anything contained in clauses (l) and (m) of this section, the office of member of the Commission for Scheduled Castes and Scheduled Tribes appointed by the Government of India.”

STATEMENT OF OBJECTS AND REASONS

With a view that a member of the Commission for Scheduled Castes and Scheduled Tribes appointed by the Government of India may not incur any disqualification as a member of the Himachal Pradesh Legislative Assembly, even if he gets remuneration as a member of the said Commission, it is considered necessary that an amendment may be made in the Himachal Pradesh Legislative Assembly Members (Removal of Disqualifications) Act, 1971.

This Bill seeks to achieve the aforesaid objective.

SHANTA KUMAR,
Chief Minister.

SIMLA:
THE 4th April, 1979.

FINANCIAL MEMORANDUM

Nil

MEMORANDUM REGARDING DELEGATED LEGISLATION

Nil

शिमला-171004, 4 अप्रैल, 1979

संख्या 1-40/79-वि0स0.—हिमाचल प्रदेश विधान सभा प्रक्रिया एवं कार्य संचालन नियमावली, 1973 के नियम 135 के अन्तर्गत, दा हिमाचल प्रदेश लैजिस्लेटरज़ (मोडिफिकेशन आफ अलाऊंसिज़ एण्ड अदर अमेनिटिज़) बिल, 1979 (बिल नम्बर 29 अफ 1979), जो हिमाचल प्रदेश विधान सभा में दिनांक 4 अप्रैल, 1979 को पुरः स्थापित किया गया है कि एक प्रति, सर्वसाधारण की सूचना हेतु राजपत्र में मुद्रित करने के लिए प्रेषित की जाती है।

वेद प्रकाश भटनागर,
सचिव।

Bill No. 29 of 1979.

**THE HIMACHAL PRADESH LEGISLATORS (MODIFICATION
OF ALLOWANCES AND OTHER AMENITIES) BILL, 1979**

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

BILL

to amend the laws relating to the grant of allowances and other amenities to the Ministers, Speaker, Deputy Speaker and other members of the State Legislature.

Be it enacted by the Legislative Assembly of the Himachal Pradesh in the Thirtieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Himachal Pradesh Legislators (Modification of Allowances and Other Amenities) Act, 1979.

Short title and commencement.

(2) It shall come into force at once.

2. In the Salaries and Allowances of Ministers (Himachal Pradesh) Act, 1971,—

Amendment of the Salaries and Allowances of Ministers (Himachal Pradesh) Act, 1971.

(a) after the existing section 5, the following section 5-A along with its heading shall be inserted, namely:—

“5-A. Free transit by railway.—Each Minister shall be provided with two free non-transferable first class passes, valid during the term of his office, which shall entitle him and his spouse or any other person accompanying him to look after and assist him to travel at any time by any railway in India; provided the aggregate distance so travelled in any financial year on these passes does not exceed twenty thousand kilometres:

Provided that if the journey is performed by an air-conditioned railway coach or by air he shall be paid an amount equivalent to one first class fare for such journey and if he is accompanied by his spouse or any other person to look after and assist him, he shall be paid an amount equivalent to two first-class fares for such journey.”;

(b) after the existing section 7, the following section 7-A along with its heading shall be inserted, namely:—

“7-A. House building advance.—In case a Minister does not avail himself of the facility of motor car advance as provided in section 7, he may be paid by way of repayable advance such sum of money, and subject to such conditions, as may be determined by rules made in this behalf, for the construction of a house, or for the purchase of a built-up house.”; and

(c) in the existing proviso to sub-section (1) of section 8, for the words “fifty rupees”, the words “three hundred rupees” shall be substituted.

Amendment
of the
Himachal
Pradesh
Legislative
Assembly
Speaker's
and Deputy
Speaker's
Salaries
Act, 1971.

3. In the Himachal Pradesh Legislative Assembly Speaker's and Deputy Speaker's Salaries Act, 1971,—

(a) after the existing section 7, the following section 7-A along with its heading shall be inserted/ namely:—

“7-A. House building advance.—In case the Speaker or the Deputy Speaker does not avail himself of the facility of motor car advance as provided in section 7, he may be paid by way of repayable advance such sum of money, and subject to such conditions, as may be determined by rules made in this behalf, for the construction of a house or for the purchase of a built-up house.”;

(b) in the existing proviso to sub-section (1) of section 8, for the words “fifty rupees”, the words “three hundred rupees” shall be substituted; and

(c) after the existing section 10, the following section 10-A along with its heading shall be inserted, namely:—

“10-A. Free transit by railway.—The Speaker and the Deputy Speaker shall each be provided with two free non-transferable first class passes, valid during the term of their office, which shall entitle each as well as his spouse or any other person accompanying him to look after and assist him to travel at any time by any railway in India; provided the aggregate distance so travelled in any financial year on the passes provided to each does not exceed twenty thousand kilometres:

Provided that if the journey is performed by an air-conditioned railway coach or by air he shall be paid an amount equivalent to one first-class fare for such journey and if he is accompanied by his spouse or any other person to look after and assist him, he shall be paid an amount equivalent to two first-class fares for such journey.”

Amendment
of the
Himachal
Pradesh
Legislative
Assembly
(Allowances
and Pension
of Members)
Act, 1971.

4. In the Himachal Pradesh Legislative Assembly (Allowances and Pension of Members) Act, 1971,—

(a) for the existing section 4-B the following section 4-B along with its heading shall be substituted, namely:—

“4-B. Constituency, secretarial and postal facilities allowance.—There shall also be paid to each member a constituency, secretarial and postal facilities allowance at the rate of three hundred rupees per mensem.”;

(b) after section 4-B so amended, the following sections 4-C and 4-D along with their headings shall be inserted, namely:—

“4-C. Advance of loan to members for purchase of motor-car.—

There may be paid to each member by way of repayable advance such sum of money, and subject to such conditions, as may be determined by rules made in this behalf, for the purchase of motor-car, so that he may be able to discharge conveniently and efficiently the duties of his office as member.

4-D. House building advance.—In case a member does not avail himself of the facility of motor car advance as provided in section 4-C, he may be paid by way of repayable advance such sum of money, and subject to such conditions, as may be determined by rules made in this behalf, for the construction of a house or for the purchase of a built-up house.”;

(c) for the sign “.” occurring at the end of sub-section (2) of section 5 the sign “:” shall be substituted and thereafter the following provisos shall be added, namely:—

“Provided that a member who instals a telephone under this sub-section, shall also be paid telephone allowance at the rate of three hundred rupees per mensem:

Provided further that if a member does not instal a telephone at any place within his constituency or at his permanent place of residence or at Simla, he shall be paid telephone allowance at the rate of one hundred rupees per mensem.”;

(d) in sub-section (1) of section 6—

(i) in the third proviso to clause (a) for the word “sixteen”, the word “twenty” shall be substituted; and

(ii) in clause (b) for the words “the Himachal Pradesh Government Transport or the Mandi-Kulu Road Transport Corporation”, the words “the Himachal Road Transport Corporation” shall be substituted; and

(e) after existing section 6-C the following new section 6-D along with its heading shall be inserted, namely:—

“6-D. Recovery of Government dues from compensatory allowance or pension.—(1) If any person to whom compensatory allowance is admissible under this Act has been a member during any period earlier to his existing term and has not paid to the State Government any amount payable by him on account of any advance, any residential accommodation or any other facility of whatever nature provided to him by the State Government during such earlier period in his capacity as Minister, Speaker, Deputy Minister, Deputy Speaker, Chief Parliamentary Secretary, Parliamentary Secretary or member, the above referred amount due from him may be recovered from his compensatory allowance.

(2) If any person to whom pension is admissible under this Act has not paid to the State Government any amount payable by him on account of any advance, any residential accommodation or any other facility of whatever nature provided to him by the State Government in his capacity as Minister, Speaker, Deputy Minister, Deputy Speaker, Chief Parliamentary Secretary, Parliamentary Secretary or member, the above referred amount due from him may be recovered from his pension.”

STATEMENT OF OBJECTS AND REASONS

The Ministers, the Speaker and the Deputy Speaker have been entitled to take an advance for the purchase of motor car so that they may be able to discharge conveniently and efficiently the duties of their respective offices. It has been considered that in case they do not intend to avail themselves of this facility, they may be provided the facility of repayable house building advance either for the construction of their own house or for the purchase of a built-up house, to have a reasonable standard of living. At present Members of Legislative Assembly are neither entitled to car advance nor house building advance. It has therefore been decided necessary to make the provisions in the law for extending the said facilities to them.

2. At present the Ministers, the Speaker and the Deputy Speaker have been allowed the re-imbursement of expenditure on local and outside calls to a maximum of Rs. 50 in any month in respect of telephones installed at any place within their constituencies or at their permanent place of residences. This re-imbursement is proposed to be increased to a maximum of Rs. 300 in a month. Similarly it has been decided that a member of Legislative Assembly shall now be paid a telephone allowance at the rate of Rs. 300/- p.m. to meet the expenses on local and outside calls in respect of telephone installed at any place within his constituency or at his permanent place of residence or at Simla. In case a member of the Legislative Assembly does not instal a telephone, it has been proposed that he may be given telephone allowance at the rate of Rs. 100 p.m.

3. The members of Legislative Assembly have been provided the facility of free transit by railway. It has been considered that the same facility be extended to the Ministers, the Speaker and the Deputy Speaker. The Members of Legislative Assembly have been given the free transit facility by railway upto 16,000 k.m. in any financial year, which has been proposed to be enhanced upto 20,000 k.m. in any financial year.

4. Under the existing provisions the members of the Legislative Assembly are being paid constituency, secretarial, postal facilities and telephone allowance at the rate of Rs. 325 p.m. It has been considered that since the members shall be paid separate telephone allowance therefore the amount of Rs.325 being paid as constituency, secretarial, postal facilities and telephone allowance is proposed to be reduced to Rs. 300 p.m.

5. In order to recover the Government dues on account of any residential accommodation or any other facility of whatever nature provided to a person by the State Government during such earlier period in his capacity as a Minister, the Speaker, the Deputy Speaker, the Deputy Minister, the Chief Parliamentary Secretary, the Parliamentary Secretary or a member, it has been proposed that the above referred amount due from him may be recovered from the compensatory allowance or pension, which becomes payable to him.

This Bill seeks to achieve the aforesaid objective.

SIMLA:
The 4th April, 1979.

SHANTA KUMAR,
Chief Minister.

FINANCIAL MEMORANDUM

Clauses 2(b), 3(a) and 4(b) of the Bill provide that the Ministers, the Speaker, the Deputy Speaker and the members of the Legislative Assembly can avail themselves of the facility of house building advance in lieu of car advance available upto the limit of Rs. 40,000. The limit for house building advance would be maximum of Rs. 45,000. It can not be precisely stated that how many persons shall avail this facility. In case 50 per cent of members avail themselves of this facility, the approximate expenditure on this account may be to the tune of Rs. 13 lakhs, which is recoverable. Similarly if 50 per cent of the members may intend to avail of the car advance facility, the approximate expenditure on this account would be Rs. 12 lakhs, which is also recoverable. Clauses 2(c) and 3(b) provide the reimbursement of telephone charges upto the extent of Rs. 300/- P. M. to the Ministers, the Speaker and Deputy Speaker and clauses 4(c) provides for the payment of telephone allowance to such members who get the telephones installed under the Act, at the rate Rs. 300/- P. M. About 50 persons may probably avail themselves of this facility and approximate expenditure involved would be about Rs. 2,00,000 per annum. Further remaining 18 persons may probably draw telephone allowance at the rate of Rs. 100 P.M. and the expenditure on this account would be Rs. 21,600 per annum. It may be added that since the secretarial, constituency and postal facilities allowance is proposed to be reduced to Rs. 300 P. M., the saving on this account would be Rs. 17,700 per annum.

2. The free transit by railway facility provided vide clauses 2(a), 3(c) and 4(d) would involve an extra expenditure to the tune of Rs. 45,000 per annum.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clauses 2(b) and 3(a) of the Bill empower the Government to make rules in respect of the matters enumerated therein. Further clause 4(b) of the Bill empowers the Speaker to make rules in respect of the matters enumerated therein. These delegations are essential and normal in character.

RECOMMENDATIONS OF THE GOVERNOR UNDER ARTICLE 207 OF THE CONSTITUTION OF INDIA

[GAD File No. GAD—PA—4(D)49/78-C]

The Governor of Himachal Pradesh, having been informed of the subject matter of the Himachal Pradesh Legislators (Modification of Allowances and Other Amenities) Bill, 1979, recommends, under Article 207 of the Constitution of India, the introduction and consideration of the Bill in the Legislative Assembly.

